

## **Federal Advisory Committee on International Postal and Delivery Services**

*(10:00 a.m.-1:00 p.m., 2 August 2012, American Institute of Architects, 1735 New York Avenue, NW, Washington, D.C. 20006)*

### **Committee Members in Attendance**

- James Campbell, Self-Employed
- Lea Emerson, International Postal Affairs, United States Postal Service
- Bruce Harsh, Department of Commerce
- Merry Law, WorldVu LLC
- Michael Mullen, Express Association of America
- Arthur Porwick, United States Chamber of Commerce
- Stephen Simchak, The Coalition of Service Industries
- Brad Smith, American Council of Life Insurers
- Paul Smith, United Parcel Service
- Nancy Sparks, Federal Express Corporation
- Phil Warker, Department of Homeland Security (Customs and Border Protection)
- Rodolfo Wolniewitz, DHL
- Sue Presti, International Mailers Advisory Group
- Maynard Benjamin, Global Envelope Alliance

### **Representatives of the U.S. Department of State**

- Robert Downes, Senior Foreign Service Officer
- Patricia Lacina, Director, Bureau of International Organization Affairs, Office of Global Systems
- Dennis Delehanty, Director for Postal Affairs, Bureau of International organization Affairs, Office of Global Systems
- Saptarshi Basu, Bureau of Economic and Business Affairs
- Helen Grove, Management Analyst, Bureau of International Organization Affairs, Office of Global Systems

### **Introductions**

1. Robert Downes opened the meeting in his capacity as Chair and Designated Federal Officer. He extended greetings from Dr. Esther Brimmer, Assistant Secretary for the Bureau of International Organizations of the Department of State and also welcomed Chairman of the Postal Regulatory Commission, Ruth Goldway, to the meeting. He noted that the required statutory notice for the meeting had been posted on Monday, July 16, 2012 (Federal Register Volume 77, No. 136).
2. The Chair outlined the purpose of the Advisory Committee meeting, which was to discuss the United States government's participation at the Universal Postal Union's (UPU) Congress that will begin in Doha, Qatar on September 24. The meeting was intended to provide an opportunity for government agencies to receive input from representatives of the private sector and public where it relates to mutual interests. He congratulated Keith Kellison of United Parcel Services and Nancy Sparks of Federal Express Corporation on being accepted as Private Sector Advisers on the official U.S. delegation to the Doha Congress. Mr. Downes also noted that the U.S. delegation would welcome opportunities to brief, both before and during the Congress, the representatives of the private sector and public that were not part of the official delegation.

## **Minutes of the May 15, 2012 Advisory Committee**

3. The Chair reminded the Committee that the meeting was being recorded and announced a slight shift in the procedures of the Advisory Committee, whereby recordings of the meetings would be available on request after the release of the certified meeting Minutes, a process that generally takes 30 days. He remarked that the agenda was developed through input from the interagency and members of the Committee, and urged all members to transmit to the Chair written versions of questions, changes to proposals, and other matters they plan to raise at the Committee meetings prior to the meetings in order to improve the efficiency and greater efficacy of the group. Mr. Brad Smith of the American Council of Life Insurers asked if last meeting's minutes were circulated prior to the meeting. Mr. Downes noted the Committee practice is to upload the minutes on the State Department's website once they are certified, but that they are not generally separately transmitted. He offered to send any Committee members copies of the minutes if they could not otherwise secure them and confirmed that the minutes of the May 15 meeting had been certified and posted.
4. Jean-Philippe Ducasse of JP Ducasse Consulting asked why there was not a mechanism for private sector representatives to participate in more advisory activities. Mr. Downes outlined the steps that the interagency has taken to expand the dialogue and include the private sector and offered further communication over email and by phone, if necessary.

## **Update on the preparations for the Doha UPU Congress**

5. Helen Grove of the U.S. Department of State notified the Committee that the fourth dispatch of proposals from the UPU International Bureau had been received and was circulated to Advisory Committee members, and that two more dispatches were to be expected in August. Dennis Delehanty of the U.S. Department of State added that there were almost 400 published proposals, and 35 people from the stakeholder U.S. government agencies were working on position papers on the proposals for use at the Doha Congress. He emphasized that the Advisory Committee meetings were an essential part of the process in crafting position papers for the U.S. delegation to the Congress, and thanked members for their views.

## **Briefing on the Preparatory Conference for the UPU Doha Congress held in Washington**

6. Lea Emerson of the United States Postal Service (USPS) outlined details from the Preparatory Conference held on June 18-19 at the USPS Headquarters, noting that the tradition goes back to the 1969 UPU Congress. More than 40 representatives from 20 countries were present, as well as 15 representatives from the U.S. government and over 20 USPS employees. Participants of the Preparatory Conference reviewed 70 proposals and 15 documents in two days. Ms. Emerson noted that July 23rd was the deadline for submitting proposals with nine supporting countries, and that the position paper process for all proposals is ongoing.
7. Charles Prescott of the UPU Consultative Committee asked Ms. Emerson for a sense of the room at the Preparatory Conference regarding proposals on addressing, the Consultative Committee, and financial inclusion. Ms. Emerson stated that no issues were raised, generally, with regard to Consultative Committee matters or addressing proposals, although she recently received input from a member of the Advisory Committee on issues regarding addressing proposals and that information is being incorporated into U.S. government positions. She also stated that there were no detailed discussions on financial inclusion.



8. Nancy Sparks of Federal Express Corporation asked for a sense of the room at the Preparatory Conference on proposals 26, 45, 31, 32, 62, and very specifically on 20.9.1. Mr. Downes offered that, in as far as oral response might not be able to be given at the meeting; he could follow up with her request over e-mail after looking at those specific proposals, particularly 20.9.1. He noted that proposals 26 and 31 had been discussed at the Preparatory Conference.
9. Mr. Delehanty reminded the Committee that the State website would hold all proposals and amendments supported by the United States government, as has been the practice for previous Congresses. He also noted that the U.S. Strategic Plan for the UPU Congress, which is still in draft form, is quite important when considering U.S. positions for the Congress, and it would be helpful for the Committee to further consider and to endorse the Strategic Plan.
10. Ms. Sparks noted that 2006 Postal Accountability and Enhancement ACT (PAEA) should also be kept in mind at Doha. The Chair assured Ms. Sparks that it of course would be, as would the Federal Advisory Committee Act and all other U.S. laws and regulations.

#### **U.S. Proposals and amendments for submission to the Doha Congress**

11. Ms. Sparks suggested that the mentioning of a "multilateral legal framework" in proposals 26 and 45 be eliminated, specifically in proposal 26 under "instructs". She further suggested that the first paragraph in proposal 26 be struck. Ms. Emerson noted that proposal 26 had been discussed at the Preparatory Conference, and the United States and several other members were discussing an amendment that would strike the phrases "multilateral legal framework" and "governance of cross border trade issues."
12. There was a discussion of the legal implications of having the Council of Administration be instructed to take actions vice other UPU entities. Charles Prescott noted that he favored proposal 26 in that it elevated the ability to make money on shipping parcels. This could implicate a change in international law and it is appropriate for the Council of Administration to discuss massively increasing the realm of parcels. He gave the example that he cannot legally consult German authorities directly to confirm an address due to privacy issues. He stated that surveys show that the customers want Cash on Delivery (COD) options and the ability to return a parcel easily. Mr. Prescott stated that he hoped the language in proposal 26 would accomplish these goals and he would like to put forward the need for multilateral ecommerce. Phil Warker, Department of Homeland Security, noted his support of the "surgically" amended proposal 26 which was discussed at the Preparatory Conference as satisfying private sector and U.S. government concerns. Ms. Sparks noted her concern that the UPU tends to focus more on operators and did not often address the needs of small shippers.
13. Jim Campbell, independent consultant, asked what the limits were of the UPU's Postal Operations Council in issuing binding regulations or other restrictions. The Chair said he did not have a specific response, but would look into the question and follow up directly with Mr. Campbell. Mr. Campbell followed up by stating he was concerned that the UPU Congress had insufficient mechanisms to control what the Postal Operations Council does after the Congress. He noted that 95 percent of the regulations that the Postal Operations Council makes are done after the Congress concludes in the four-year interim until the next Congress.

14. Returning specifically to proposal 26, the Chair agreed with Ms. Sparks' characterizations, but noted that the surgical approach to amendments is an effective strategy for modifying the direction of the proposal. Mr. Prescott stressed that under its rules, the UPU cannot do anything unless the members concur. He stated that the third and fourth bullets in proposal 26 that were amended to be stricken were actually pro-business and he would like to see the U.S. support their inclusion. Mr. Prescott also stated that he would like the proposal to continue to include instructions regarding developing a performance index of how well different entities deliver parcels and how undeliverable parcel returns are handled?. Mr. Prescott added that the quality of service to the public should remain an overarching goal to the UPU and its members.
15. Ms. Sparks asked if the Preparatory Conference participants had discussed proposal 32 which deals with Customs issues. Ms. Emerson stated that there were no major issues with proposal 32 when it was discussed at the Preparatory Conference. Mr. Campbell asserted that this proposal is similar to giving the POC a blank check because it is vague and could allow the POC to create a mandated customs regime.
16. Mr. Warker stated that while some of the language was vague, proposal 32 was primarily aimed at re-establishing and strengthening contact between the UPU and the World Customs Organization, a goal that the U.S. government shared. Ms Sparks noted that at times the private sector had been kept out of POC meetings on areas where the private sector has concerns. She indicated the UPU should be able to discuss how to simplify customs, but should include the private sector in the discussions
17. Michael Mullen of Express Association of America asked if proposal 31 will require advanced data on all parcels and whether there was a deadline for this transition. Mr. Warker indicated that there was no deadline because for the United States, it is up to the Department of Homeland Security not the UPU to set deadlines and requirements for data on parcels. The idea is rather to have the POC help member states meet requirements of other national governments.
18. Arthur Porwick of the United States Chamber of Commerce asked why the private sector was not represented at the Preparatory Conference. The Chair noted that there were a variety of ways that the private sector could raise its views with the U.S. government, the primary being the Advisory Committee, but also through letters, meetings and telephone conferences. The purpose of the Preparatory Conference was not to negotiate positions, but rather to discuss areas of interest and build coalitions with other members.



19. Nancy Sparks raised proposal 20.12.3 of the Netherlands for discussion, explaining that the proposal would raise the definition of letter post items from the 2 kilos to 5 kilos, and asked whether the United States supported the proposal. The Chair said that he could not speak to the proposal at the time of the meeting, but asked Ms. Sparks to elaborate on her concerns. Ms. Sparks said that the proposal would increase the definition of letter mail to include priority and non-priority items up to 5 kilos instead of the current 2 kilos. Her understanding was that small packets falling within letter mail would be subject to a more simplified declaration process, which would bring much more of the marketplace into this simplified form of clearance. She stated that if you consider this, you would think that governments would want more information on goods and items, which fall outside of regular letters. This would move customs simplification in terms of information which means a much lighter hand in scrutiny when express company and other private operators are providing all information on all goods, would find this to be very objectionable. The Chair agreed to follow up after reviewing the specific proposal.
20. Mr. Prescott mentioned document 4 that was circulated to the Advisory Committee by the State Department that listed proposals of interest. He asked whether the purpose of the list was to elicit from the Committee their comments on specific proposals, or to indicate that State does or does not have particular issues with the proposals. He also asked whether the Chair supported or did not support or was indifferent about the proposals. Having posed that question, he said that the proposals that he found very desirable to not have changed were 22, 23, 30, 31, 44, 24, 29 rev 1, and 43.

#### **Issues relating to financial services**

21. Mr. Smith thanked the Chair for dedicating a portion of discussion to financial services alone. He first drew attention to the United States government Strategic Plan for Doha, and asked that it include a definition of "international postal financial services." Mr. Smith did not believe that it should be U.S. government policy in Doha to include additional mentions of financial services to the mandate of the UPU. The Chair thanked Mr. Smith for his comments, and reminded the Committee that suggestions for changes submitted in writing to the Chair prior to meetings would facilitate debate and the Chair's ability to respond to questions on position. Patricia Lacina, Director for the Office of Global Systems of the Bureau of International Affairs and designated U.S. Head of Delegation for the UPU's Doha Congress, reminded Mr. Smith that the UPU Convention does not cover financial services, which are voluntary, but only letter and parcel post.
22. Mr. Smith asked the Chair if in advance documents could be circulated in Microsoft Word and PDF form to facilitate comments.
23. Laree Martin of the United States Postal Service then further clarified that references to "Act" were to the Postal Payment Services Agreement, which is voluntary only for Members who ratify it. Mr. Brad Smith asserted that his questions were still relevant, even in light of the clarification, and underscored that the current definition of financial services is remittances and that expansion of this definition should be prevented. Specifically, Mr. Smith asked if the U.S. delegation has the mandate to oppose this at the Congress.

24. Paul Smith of the United Parcel Service asked Mr. Brad Smith to please circulate his suggested changes to the U.S. Strategic Plan to the Advisory Committee, a request which was seconded by others. Ms. Sparks of Federal Express Corporation asked if "competitive neutrality" was replacing "undistorted competition" as the new U.S government term for "level playing field" regarding postal services. Mr. Paul Smith seconded Nancy's sentiment that the term "competitive neutrality" was much more descriptive and appropriate than the frequent use of "level playing field", but he also noted discomfort with the distinctions made between "undistorted competition" and "unfettered competition."
25. Gene Colombo of Deloitte Consulting then raised the point that the USPS experiences discrimination in not being allowed to pursue banking services. Mr. Prescott remarked that the U.S. unilaterally opposing banking services for postal operators was probably an easy way to lose friends in developing countries.
26. The Chair moved the conversation to Proposals 54 and 55, previously mentioned, with possible U.S. amendments included in the documents circulated for the Advisory Committee meeting. Mr. Paul Smith opened the discussion on proposals 54 and 55 with questions of terminology and language use, remarking that he was less concerned by the proposals' affect on financial services. Mr. Paul Smith stated that the language under "Instructs the Council of Administration" dilutes standards and creates an unequal playing field.
27. Mr. Brad Smith returned the conversation to the worry he has for postal services acting too much in the financial sector, especially in the context of recent financial chaos and the implications for the taxpayer if postal operators providing financial services are unable to meet obligations. In general, Mr. Brad Smith said that, to him, the thrust of Proposals 54 and 55 aimed to expand financial services from remittances into traditional financial services and that this was unacceptable and inappropriate for the UPU. If Proposals 54 and 55 succeed at Congress, Mr. Smith feels strongly that they must include competitive neutrality clauses, and must ensure that postal operators providing financial services adhere to anti-money laundering and terrorist guidelines. Mr. Brad Smith also suggested that State consults with Treasury, Commerce, Federal Reserve and sub-national regulators regarding these proposals, as they could set up shadow banking.
28. The Chair noted that proposals 52, 54, and 55 would likely be discussed at Congress on September 25 and 26, 2012, toward the very beginning of the session.
29. Ms. Martin, in response to previous comments, offered a caveat on wording of proposals. As the official language of the UPU is French, proposals written in English experience translation to French and then to all official languages of the UN, and therefore experience some nuances lost in translation.

**Any other business**

As no other issues were raised, the Chair closed the meeting at 1:00.

Meeting minutes prepared by Helen Grove, Management Analyst, Bureau of International Organization Affairs, Office of Global Systems, Department of State.

Certified by Robert Richard Downes, Designated Federal Officer, on this the 17<sup>th</sup> of August, 2012.

